

IRVINGTON RELOCATION PLAN

Consideration of Approval of Relocation Plan and the Transfer of \$3,900,000 from Redevelopment Agency Capital Improvement Funds for Relocation Benefits, Moving Expenses, and Business Goodwill, as Legally Required for Occupants of the Irvington Unified Redevelopment Area

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Executive Summary: State Law requires the adoption of a Relocation Plan for any redevelopment project involving the relocation of a significant number of tenants. The Redevelopment Agency has taken action to begin the acquisition and redevelopment of an approximate six-acre site designated as the Irvington Unified Redevelopment Area (the “Project”), and it anticipates that the 24 tenants and 12 independent contractors operating businesses within the project site will need to relocate. Staff is recommending that the City Council/Agency adopt a resolution approving the attached “Relocation Plan for the proposed Irvington ‘Monument Shopping Center’ Project” to assist in the orderly relocation of the affected tenants and to meet the requirements of California State Law. The report also recommends transferring \$3,900,000 from the Capital Improvement Fund Property Acquisition and Development to the Monument Center project to facilitate the execution of relocation settlement agreements with the occupants of the Irvington Unified Redevelopment Area.

BACKGROUND: On April 25, 2000, the Redevelopment Agency (Agency) adopted State Relocation Guidelines as the Agency’s general guidelines for implementing the California Relocation Assistance Act (Resolution 251). The California Relocation Assistance Act requires that a Relocation Plan be developed by the relocating entity (i.e., Redevelopment Agency) and adopted by the community’s legislative body (i.e., City Council) for any project requiring the relocation of a significant number of tenants.

On March 28, 2000, the Agency Board designated specified parcels in the Irvington Redevelopment Project Area as a Unified Redevelopment Area, finding that it was in the best interests of the Project Area that the properties be developed in a unified manner. The Agency amended this designation on May 28, 2002, when it included two adjacent properties on Bay Street (4024 Bay Street and 4032 Bay Street) in the Unified Redevelopment Area on the basis that control of the properties would improve the ability of the Agency and the selected developer to meet the redevelopment objectives for the project. The Irvington Unified Redevelopment Area now encompasses all of the block bounded by Fremont Boulevard, Bay Street, Irvington Avenue and Trimboli Way, with the exception of the historic Clark’s Hall building (Bay Street Coffee Company building) on the corner and the adjacent retail building containing Armadillo Bay, Bay Street Salon and Lavender Bay.

On May 28, 2002, the Agency adopted a resolution directing staff to continue working toward redevelopment of the site, including environmental investigation, development of a Relocation Plan for existing tenants, re-initiation of the property acquisition process, and the issuance of a Request for Qualifications (RFQ) document to solicit and select a developer for the project based on certain redevelopment objectives and selection criteria. The Agency adopted this resolution after considering the costs, benefits and risks of proceeding with the project, and after having already designated a preferred development proposal featuring a Whole Foods market and then subsequently learning in January 2002 that Whole Foods had rejected the site. On October 1, 2002, the Agency Board considered the selection of a new preferred developer for the project.

Discussion: Redevelopment of the Irvington Unified Redevelopment Area requires the relocation of 24 tenants and approximately 12 independent contractors working out of the tenant space. With a significant number of tenants expected to be relocated, and with the property acquisition process underway, staff prepared the attached Relocation Plan consistent with Government Code Section 7260, et. seq. State Law requires that such a Relocation Plan be adopted.

The primary purpose of the Relocation Plan is to outline the requirements for moving and re-establishing the displaced businesses, and to demonstrate the level of advisory and financial assistance that will be provided. While there is no specific requirement under California Relocation Law or Guidelines mandating that alternate relocation sites be made available to commercial businesses at the time of displacement, the Agency is committed to making an effort to satisfactorily relocate the businesses.

The relocation process includes business relocation interviews, needs analysis, a search for appropriate replacement accommodations, preparation and service of Notices-to-Vacate, documentation, claim review, filing of claims for payment of eligible expenses, moving coordination, and relocation assistance. The attached Relocation Plan provides:

- A map of the general location and specific Project site;
- An assessment of the relocation needs of businesses which may be relocated as a result of the implementation of the project;
- An assessment as to the availability of comparable replacement resources within the City of Fremont and neighboring communities; and
- The steps and procedures that the Agency will follow to ensure a satisfactory and thorough relocation program.

The attached Relocation Plan was distributed to all tenants and property owners on August 26, 2002. The Agency provided a 30-day period of review of the Relocation Plan, during which time tenants could submit questions and comments on the plan. The relocation consultant who prepared the plan responded to any submitted questions and incorporated the questions and responses into the final Relocation Plan. The Agency also provided a notice to all tenants advising them of language assistance services. The notice appeared in five different languages, and three tenants requested and received assistance in understanding the plan. Attachment 4 of the Relocation Plan contains any comments and questions and responses received as of October 1, 2002. Tenants were also notified that they could submit questions and comments that would be presented at the public hearing to consider adoption of the Relocation Plan.

Two substantive changes were made to the Relocation Plan between when it was distributed to the tenants and property owners and final attached version. The paragraph on page 10 immediately preceding section D was rewritten as follows:

Initial version: “It should be noted, however, that claims for loss of business goodwill are not a consideration in establishing compensations for relocation assistance, and if a claim for loss of goodwill is to be made, it must be filed after displacement has occurred, allowing sufficient time to enable determination of loss, if any.”

Final version: “It should be noted, however, that loss of business goodwill is not a consideration in establishing compensations for relocation assistance unless a tenant opts for a fixed payment in lieu of payment for actual relocation costs (see page 14).”

The final version clarifies that a fixed payment in lieu of payment for actual relocation costs may include payment for loss of goodwill. If this is the case, the Agency must specify in writing what portion of the payment, if any, is considered to be compensation for loss of goodwill. The final version also omits the sentence that says a claim for loss of goodwill must be filed after displacement has occurred. Technically, a tenant does not have to be displaced to file a claim for loss of goodwill, although the validity of any claim will depend on actually incurred damages for loss of goodwill.

The second substantive change pertains to the cost estimate for relocation-related payments. It was increased by \$66,000 to account for the likelihood that the independent contractors working out of the tenant space are entitled to relocation assistance.

Relocation Settlement Cost Estimate: Relocation costs for the 24 businesses/organizations and the 12 independent contractors currently doing business out of the tenant space on the project site are estimated to be \$1,793,000. When the cost estimates for payments for possible loss of goodwill and fixed furniture, fixtures and equipment are added to this figure, the total cost estimate for settlement of relocation issues with the businesses on the site is \$3,900,000 (includes 10% contingency). This estimate was included in the estimated Redevelopment Agency investment of \$15-17 million identified in the May 28, 2002 staff report concerning the project.

The funds will be used for legally required costs (including relocation benefits, moving expenses and goodwill) associated with the relocation of tenants. All individual settlements will require approval of the Agency Board in executive session. All relocations will be carried out in accordance with the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act, as well as with State and local regulations.

Funding: Funds for the proposed expenditures have been appropriated under a project titled “Reserves for Property Acquisition and Development – CIP #834” in the Agency’s Project Appropriations Plan (adopted June 4, 2002). Staff recommends that \$3,900,000 of the previously appropriate \$10,000,000 of “Reserves for Property Acquisition and Development” be transferred to the Monument Center project, RDA 1012.

ENCLOSURE: Relocation Plan for the Proposed Irvington “Monument Shopping Center” Project, August 2002.

RECOMMENDATION:

1. Adopt a resolution approving “Relocation Plan for the proposed Irvington ‘Monument Shopping Center’ Project” that was prepared for the Redevelopment Agency by Pacific Relocation Consultants and dated August 2002.
2. Authorize the transfer of \$3,900,000 from the Redevelopment Agency project “Reserves for Property Acquisition and Development – CIP #834” to the Monument Center project (RDA 1012) to be used for relocation benefits, moving expenses, and business goodwill, as legally required, for occupants of the Irvington Unified Redevelopment Area.

